APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)
	)
John TANG et al.	)
	)
Serial No.: 08/885,597	) Group Art Unit: 2773
	)
Filed: June 30, 1997	) Examiner: T. Joseph
	)
For: ANIMATED INDICATORS THAT REFLECT	)
FUNCTION, ACTIVITY, OR STATE OF	)
OBJECTS, DATA, OR PROCESSES	)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:
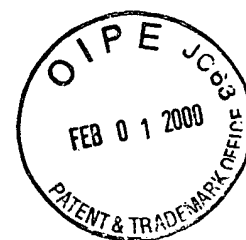
APPEAL BRIEF

In support of its Notice of Appeal filed December 1, 1999, and pursuant to 37 C.F.R. § 1.192, Appellants present in triplicate their Appeal Brief accompanied by a check in the amount of $300.00 to satisfy the fee under 37 C.F.R. § 1.17(c). This is an appeal to the Board of Patent Appeals and Interferences from a decision finally rejecting claims 1-31. The appealed claims are set forth in the Appendix. If additional fees are required or if the enclosed payment is insufficient, please charge the deficiencies to Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 and such fee is not accounted for above, Appellants petition for such an extension and request that the fee be charged to Deposit Account No. 06-0916.

LAW OFFICES
NNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
ASHINGTON, DC 20005
202·408·4000

I. REAL PARTY IN INTEREST

The real party in interest is Sun Microsystems, Inc., a corporation of California.

II. RELATED APPEALS AND INTERFERENCES

There are no known related pending appeals or interferences directly affected by or having a bearing on the decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-31 have been finally rejected and are the subject of this appeal. The claims on appeal are set forth under the heading "APPENDIX." In the June 3, 1999, Final Office Action, the Examiner rejected claims 1, 13, 29, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al. (U.S. Patent No. 5,479,602) and Johnston, Jr. et al. (U.S. Patent No. 5,880,729); rejected claims 2-4, 10, 14 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al. and Johnston, Jr. et al., and further in view of Gudmundson et al. (U.S. Patent No. 5,680,619); rejected claims 5-6, 9, 11-12, 15, 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al., Johnston, Jr. et al., and Gudmundson, and further in view of Gallagher (Computer Visualization: Graphics Techniques for Scientific and Engineering Analysis); rejected claims 7, 19-21, 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Johnston, Jr. et al.; rejected claims 22-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over STN Express, Lagarde et al. (U.S. Patent No. 5,721,908), and Johnston, Jr. et al.; rejected claims 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al.,

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STN Express, and Johnston, Jr. et al.; and rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Gallagher in view of Johnston, Jr. et al.

IV.   STATUS OF AMENDMENTS

Appellants filed an Amendment After Final on September 3, 1999, in which Appellants proposed amending claim 13 to correct a typographical error. In the September 20, 1999, Advisory Action, the Examiner agreed to enter the September 3, 1999, Amendment upon filing a Notice of Appeal and an Appeal Brief. Accordingly, the claims in the Appendix reflect the change made in the Amendment After Final.

V.   SUMMARY OF INVENTION

Animated icons are utilized by some computer systems to allow a user to more easily associate the icon with its functionality. Typical animated icons, however, do not show much information about the objects that they represent. For example, although the icons inform the user of the general functionality of the object represented, they fail to inform the user of the amount or quality of the data manipulated by the objects. In other words, typical animated icons do not contain much information about the particular state of the object they represent.

The present invention addresses this problem by providing animated indicators that monitor the state of a software container and reflect the state of the container, potentially including information such as amount, type, and activity of the container. As the state of the container changes, an animation routine changes based on a determination associated with the

state changes. In this manner, users are presented with up-to-date and detailed information about a container represented by a small graphic pictorial. Thus, the user receives a continuous supply of useful information about the container without having to specifically select and view the container as a full screen representation.

VI.   ISSUES

The issues in this Appeal Brief are:

A.   Did the Examiner improperly reject claims 1, 13, 29, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al. and Johnston, Jr. et al.

B.   Did the Examiner improperly reject claims 2-4, 10, 14 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al. and Johnston, Jr. et al., and further in view of Gudmundson et al.

C.   Did the Examiner improperly reject claims 5-6, 9, 11-12, 15, 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al., Johnston, Jr. et al., and Gudmundson, and further in view of Gallagher.

D.   Did the Examiner improperly reject claims 7, 19-21, 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Johnston, Jr. et al.

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E.   Did the Examiner improperly reject claims 22-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over STN Express, Lagarde et al., and Johnston, Jr. et al.

F.   Did the Examiner improperly reject claims 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Baecker et al., STN Express, and Johnston, Jr. et al.

G.   Did the Examiner improperly reject claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Gallagher in view of Johnston, Jr. et al.

VII.   GROUPING OF CLAIMS

In the claims on appeal, claims 1, 7, 13, 19, 22, 25, 26, 27, and 28 are the independent claims. The claims on appeal do not stand or fall together. These claims should be considered in six groups:

Group I: 1, 13, 29, 31;

Group II: 7, 30;

Group III: 19-21, 25, 27;

Group IV: 22-24, 26, 28;

Group V: 2-4, 8-10, 14-16; and

Group VI: 5-6, 11-12, 17-18.

The claims have been placed in these groups due to their common subject matter. However, Appellants have addressed the outstanding rejections in sections based on the

rejections themselves instead of this grouping.

VIII. ARGUMENTS

A. Did the Examiner Improperly Reject Claims 1, 13, 29, and 31 under 35 U.S.C. § 103(a) as Being Unpatentable over <u>Baecker et al.</u> and <u>Johnston, Jr. et al.</u>

Appellants traverse the rejection of claims 1, 13, 29, and 31 as being unpatentable over <u>Baecker et al.</u> and <u>Johnston, Jr. et al.</u> To establish a prima facie case of obviousness, two basic criteria must be met. First, the prior art reference as modified must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. See M.P.E.P. § 2143. In rejecting claims 1, 13, 29, and 31, the Examiner has failed to establish a prima facie case of obviousness.

Claim 1 is drawn to a process for reflecting a state of a software container having objects comprising, cyclically displaying a series of frames reflecting a state of the container as an animated sequence, detecting an event reflecting a change in the state of the container, determining based on the detected event whether an animated sequence does not reflect the state of the container, and updating the cyclical display based on the determination.

In an attempt to establish a prima facie case of obviousness, the Examiner alleged, on page 2 of the Final Office Action, that <u>Baecker et al.</u> discloses, *inter alia*, the modification of an animation icon when a corresponding file or folder changes, so that new animation frames are

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generated. The Examiner also alleged that <u>Johnston et al.</u> discloses the use of animation for allowing users to view the transition of an object between two different static states of elements within a graphical user interface (GUI). The Examiner did not specifically point out what was missing from either reference but made several allegations as to what would have been obvious. Among these allegations, the Examiner alleged that it would have been obvious to determine based on a detected event whether an animated sequence does not reflect the state of the container because doing so allows the user to detect whether a change has occurred to a computer file without the need for additional input.

Appellants respectfully submit that the Examiner has failed to establish that the references teach or suggest all the claim elements. <u>Baecker et al.</u> discloses an apparatus and method for generating and displaying a content-based animated depiction of a standard icon. The animated depiction reflects the state of a folder that has several files in it and can change the animation scenario whenever the folder represented by the animated icon is modified (col. 8, line 58 - col. 9, line 6). In contrast, the animated sequence according to the present invention is changed when it has been determined that the animated sequence does not reflect the state of a container. In this manner, unnecessary update cycles can be eliminated thereby improving performance. This is reflected in the written description with regard to an implementation of the present invention. Upon the detection of the event that reflects a change in state, animated indicator program 206, through monitor program 208, determines whether the state of the software container has changed enough to warrant a revised animation cycle (page 7, lines 1-3). If there has not been enough of a change, then no revised animation cycle is needed. As a

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consequence of this configuration, the system does not even attempt to update the cyclical display when an update is not necessary.

In <u>Baecker et al.</u>, updates occur every time there is a folder modification, thus wasting valuable time if it turns out that the animation scenario does not have to be changed at all. In other words, <u>Baecker et al.</u> keeps its cyclical display accurate by regenerating the frames that constitute the cyclical display every time a modification to the folder occurs. There is no quality control as to whether the regeneration is needed. For example, if a user of the system in <u>Baecker et al.</u> were to delete one file and create another file in between update cycles, the system would detect that a folder modification has occurred and cause a regeneration of the frames. In this case, however, a regeneration was not needed because the number of files in the folder remained the same. Thus, the system performed a regeneration that was not necessary to ensure that the cyclical display reflected the state of the folder. In contrast, a system consistent with the present invention eliminates that unnecessary regeneration by determining whether the animated sequence reflects the state of the folder. Accordingly, <u>Baecker et al.</u> does not disclose or suggest the step of determining based on the detected event whether an animated sequence does not reflect the state of the container.

The teachings of <u>Johnston, Jr. et al.</u> are not sufficient to make up for the deficiencies of <u>Baecker et al.</u> As stated by the Examiner, <u>Johnston, Jr. et al.</u> discloses the use of animation for allowing users to view the transition of an object between two different static states of elements within a GUI. There is nothing in <u>Johnston, Jr. et al.</u>, however, to suggest determining based on the detected event whether an animated sequence does not reflect the state of the container. On

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page 15 of the Final Office Action, the Examiner argued that <u>Johnston, Jr. et al.</u> teaches producing animation of an icon only after the start of an event which involves a state change where the retrieval of data is involved, and animating only while the state is being changed or when the user places an input device cursor over an animated icon. Appellants submit that animation only while the state is being changed is not sufficient to teach determining whether an animated sequence does not reflect the state of the container. Animating only while the state is being changed might be evidence that an update of the animated sequence occurs, but does not prove that a separate determination occurs. The present invention includes both a determination and an update. Accordingly, neither <u>Baecker et al.</u> nor <u>Johnston et al.</u> disclose or suggest the step of determining based on the detected event whether an animated sequence does not reflect the state of the container. The combination of <u>Baecker et al.</u> and <u>Johnston et al.</u> also fails to teach this claim element. Based on the foregoing, Appellants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claim 1.

Appellants also respectfully submit that the Examiner has failed to establish some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The Examiner's rejection does not specify exactly what is missing from each reference and exactly how the references should be combined. Instead, the Examiner made a series of obviousness statements directed to each of the claim elements. Appellants submit that this is an improper manner of making a rejection under 35 U.S.C. § 103(a). These statements of obviousness do not include a suggestion or motivation to modify or combine the references and are not proper. Nevertheless,

LAW OFFICES
NNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
ASHINGTON, DC 20005
202-408-4000

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the Examiner asserted that it would have been obvious to determine based on a detected event whether an animated sequence does not reflect the state of the container because doing so allows the user to detect whether a change has occurred to a computer file without the need for extra input. Appellants respectfully disagree with that position. As explained before, neither Baecker et al. nor Johnston et al. disclose the aforementioned determining step. Also, Baecker et al. actually teaches away from such a determination. Baecker et al. discloses that when an object is modified, the associated animation can be regenerated on a periodic basis (col.8, lines 63-65). This regeneration on a periodic basis is essentially an unconditional update of the frames that constitute the animation. Periodic regeneration is unconditional because the regeneration occurs every given time period without checking other factors. On the other hand, systems consistent with the present invention, utilize an update function that occurs conditionally based on whether the current animation sufficiently reflects the state of the container. It is not obvious to change an unconditional update, such as that taught by Baecker et al., to a conditional update, such as that taught by the present invention. Furthermore, there is no teaching or suggestion in either Baecker et al. or Johnston et al. to alter the combined system of the references so that there is an update conditional on an animated sequence matching the container state. Accordingly, it would not have been obvious to determine based on a detected event whether an animated sequence does not reflect the state of the container. Based on the foregoing, Appellants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claim 1.

Claim 13 is drawn to a computer readable medium containing instructions executable on a computer. The instructions are executable to perform the method described above with

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reference to claim 1. Accordingly, Appellants respectfully submit that this claim is patentable

for at least the reasons given with respect to claim 1.

Claims 29 and 31 depend from claims 1 and 13, respectively, and require that the frames

include characteristics that are symbolic of objects of the container. Appellants respectfully

submit that these claims are patentable for least the reasons given with respect to claims 1 and

13.

B.   Did the Examiner Improperly Reject Claims 2-4, 10, 14 and 16 under 35

U.S.C. § 103(a) as Being Unpatentable over <u>Baecker et al.</u> and <u>Johnston, Jr. et al.</u>, and

further in view of <u>Gudmundson et al.</u>

Appellants traverse the rejection of claims 2-4, 10, 14 and 16 under 35 U.S.C. § 103(a) as

being unpatentable over <u>Baecker et al.</u> and <u>Johnston, Jr. et al.</u>, and further in view of

<u>Gudmundson et al.</u>

Claims 2 and 14 depend from claims 1 and 13, respectively, and require that the cyclical

display provides an intuitive representation of a degree of the change in the state of the container.

These claims are patentable, at least, in view of their dependence from claims 1 and 13,

respectively. The Examiner seemingly relied on <u>Gudmundson et al.</u> to teach providing an

intuitive representation of a degree of the change in the state of the container. On page 4 of the

Final Office Action, the Examiner alleged that it is obvious to one of ordinary skill in the art to

incorporate <u>Gudmundson et al.</u> into the process taught by <u>Baecker et al.</u>, wherein the cyclical

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display provides an intuitive representation of a degree of the change in the state of the container, because doing so allows the user to view and track changes without the need for additional input. Appellants respectfully submit that the Examiner has failed to establish a proper suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. Appellants can find no disclosure or suggestion in Baecker et al., Johnston, Jr. et al., or Gudmundson et al. that providing an intuitive representation of a degree of the change in the state of the container would allow the user to view and track changes without the need for additional input. Therefore, the Examiner's stated motivation of allowing the user to view and track changes without the need for additional input is apparently an impermissible use of hindsight based on the Appellants' invention. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claims 2 and 14 are patentable over the cited references.

Claim 3 depends from claim 1 and requires that the cyclical display reflects the numbers and types of the objects. This claim is patentable, at least, in view of its dependence from claim 1.

Claims 4, 10, and 16 depend from claims 1, 7, and 13, respectively, and require that the cyclical display provides an intuitive representation of a degree of the change in the state of the container. These claims are patentable, at least, in view of their dependence from claims 1, 7, and 13, respectively.

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C.   Did the Examiner Improperly Reject Claims 5-6, 9, 11-12, 15, 17 and 18 under 35 U.S.C. § 103(a) as Being Unpatentable over <u>Baecker et al.</u>, <u>Johnston, Jr. et al.</u>, and <u>Gudmundson</u>, and further in view of <u>Gallagher.</u>

Appellants traverse the rejection of claims 5-6, 9, 11-12, 15, 17 and 18 under 35 U.S.C. § 103(a) as being unpatentable over <u>Baecker et al.</u>, <u>Johnston, Jr. et al.</u>, and <u>Gudmundson</u>, and further in view of <u>Gallagher.</u>

Claims 5, 11, and 17 depend from claims 2, 8, and 14, respectively, and require the use of one of color variations, tempo, motion, and change in size to represent the degree of change in the state of the container. These claims are patentable, at least, in view of their dependence from claims 2, 8, and 14, respectively. On pages 6-7 of the Final Office Action, the Examiner alleged that <u>Gallagher</u> discloses, among other things, using different rates of changing frames dependent on the quality of information, color cycling for mapping a sequence of moving events onto a range of color indices, and using color cycling for fluid flow through a container. The Examiner also alleged that <u>Gudmundson</u> discloses providing an object and view mirror where color, sound, motion, and size data corresponding to an object represented by a fish can be modified, and that it is obvious to use one of color variations, tempo, motion, and change in size to represent the degree of change in the state of the container because doing so signals information regarding object state while reducing the need for the user to change physical position for the entering of input and the viewing of an output display.

Appellants respectfully disagree with that position. The combined teachings of the references fail to disclose using one of color variations, tempo, motion, and change in size to

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represent the degree of change in the state of the container. The references relied on by the Examiner merely teach that various features (e.g., color, tempo, etc.) can be altered in a given animation. The ability to alter the color or rate of frame change of an animation is not equivalent to using those alterations to represent the degree of change in the state of a software container that is depicted by that animation. Accordingly, the references cited by the Examiner do not disclose using one of color variations, tempo, motion, and change in size to represent the degree of change in the state of the container. Furthermore, Appellants respectfully submit that the Examiner has failed to establish a proper suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The Examiner's stated motivation of signaling information regarding object state while reducing the need for the user to change physical position for the entering of input and the viewing of an output display is an impermissible use of hindsight based on the Appellants' invention. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claims 5, 11, and 14 are patentable over the cited references.

Claims 6, 12, and 18 depend from claims 3, 9, and 15, respectively, and require the use of one of color variations, tempo, motion, and change in size to reflect the number or type of the objects in the container. These claims are patentable, at least, in view of their dependence from claims 3, 9, and 15, respectively. Similar to the argument presented above with respect to claims 5, 11, and 14, the ability to alter the color or rate of frame change of an animation is not equivalent to using those alterations to reflect the number or type of the objects in a software

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container that is depicted by that animation. Accordingly, the references cited by the Examiner do not disclose using one of color variations, tempo, motion, and change in size to reflect the number or type of the objects in the container. Furthermore, Appellants respectfully submit that the Examiner has failed to establish a proper suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The Examiner's stated motivation of signaling information regarding object state while reducing the need for the user to change physical position for the entering of input and the viewing of an output display is an impermissible use of hindsight based on the Appellants' invention. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claims 6, 12, and 18 are patentable over the cited references.

Claims 9 and 15 depend from claims 7 and 13, respectively, and require that the cyclical display reflects the numbers and types of the objects. These claims are patentable, at least, in view of their dependence from claims 1 and 13, respectively.

D.   Did the Examiner Improperly Reject Claims 7, 19-21, 25 and 30 under 35 U.S.C. § 103(a) as Being Unpatentable over <u>Johnston, Jr. et al.</u>

Appellants traverse the rejection of claims 7, 19-21, 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over <u>Johnston, Jr. et al.</u>

Claim 7 is drawn to a computer system that includes a memory with a software container

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and an animated indicator program. The animated indicator program includes computer code for monitoring the software container to detect an event reflecting a change in a state of the container, for determining based on the detected event whether an animated sequence does not reflect the state of the container, and for generating a series of frames to reflect a state of the container based on the determination.

Appellants respectfully submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claim 7. On page 8 of the Final Office Action, the Examiner alleged that Johnston, Jr. et al. discloses, *inter alia*, displaying state changes which correspond with state changes, detecting changing of software state through the use of active animation, and cyclically displaying an animated sequence in the form of a rotating button. The Examiner cited no reference as teaching the step of determining based on the detected event whether an animated sequence does not reflect the state of the container. The find button in Johnston, Jr. et al. is relied on by the Examiner as showing an animated sequence that reflects the state of a container. There is nothing at all in Johnston, Jr. et al. that discloses or suggests determining whether the find button does not reflect the state of a container. The Examiner appears to have attempted to overcome this deficiency of Johnston, Jr. et al. by stating that it would have been obvious to provide such a determination because doing so enables the computer programmer to provide a user-friendly method for the software user to track software states. Appellants submit that the Examiner has not provided an adequate motivation to modify Johnston, Jr. et al. to include the determination. The find button is nothing more than a trigger for activating a function to be

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performed. One of ordinary skill in the art would not be motivated to determine whether this find button reflects the state of a software container.

Furthermore, on page 15 of the Final Office Action, the Examiner argued that Johnston, Jr. et al. teaches producing animation of an icon only after the start of an event which involves a state change where the retrieval of data is involved, and animating only while the state is being changed or when the user places an input device cursor over an animated icon. Appellants submit that animation only while the state is being changed is not sufficient to teach determining whether an animated sequence does not reflect the state of the container. Animating only while the state is being changed might be evidence that an update of the animated sequence occurs, but does not prove that a separate determination occurs. The present invention includes both a determination and an update. Accordingly, Johnston, Jr. et al. does not disclose or suggest determining based on the detected event whether an animated sequence does not reflect the state of the container. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claim 7 is patentable over the cited reference.

Claim 19 is drawn to a process for reflecting activity of a software container that is closed, comprising, detecting activity of the closed container, and updating an animated sequence so as to reflect activity of the closed container. Appellants respectfully submit that Johnston et al. does not disclose or suggest this claimed combination of steps. Among other things, the reference does not disclose or suggest detecting activity of the closed container, and updating an animated sequence so as to reflect activity of the closed container.

The Examiner indicated that it would have been obvious to include these steps in

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Johnston et al. Appellants respectfully disagree with that position. There is no teaching or suggestion in Johnston et al. to modify its system so that activity of the closed container is detected, and an animated sequence of the closed container is updated so as to reflect activity. Johnston et al. discloses detecting the activity of a menu item (i.e., a button), and that an animated sequence is updated so as to reflect activity of a button. A button is in no way analogous to a closed container. Accordingly, there is no suggestion in Johnston et al. as to why one of ordinary skill in the art would modify the system of Johnston et al. so that activity of the closed container is detected, and an animated sequence of the closed container is updated so as to reflect activity. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claim 19 is patentable over the cited reference.

Claim 20 depends from claim 19, and requires that the animated sequence is displayed. This claim is patentable, at least, in view of its dependence from claim 19.

Claim 21 depends from claim 20, and requires the step of opening the container and interrupting the display of the animated sequence when the container is opened. This claim is patentable, at least, in view of its dependence from claim 20.

Claim 25 is drawn to a computer readable medium containing instructions executable on a computer. The instructions are executable to perform the method described above with reference to claim 19. Accordingly, Appellants respectfully submit that this claim is patentable for at least the reasons given with respect to claim 19.

Claim 30 depends from claim 7, and requires that the frames include characteristics that are symbolic of objects of the container. This claim is patentable, at least, in view of its

dependence from claim 7.

E. Did the Examiner Improperly Reject Claims 22-24 and 26 under 35 U.S.C. § 103(a) as Being Unpatentable over STN Express, Lagarde et al., and Johnston, Jr. et al.

Appellants traverse the rejection of claims 22-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over STN Express, Lagarde et al., and Johnston, Jr. et al.

Claim 22 is drawn to a process for reflecting activity of a network-based software container associated with a first computer system, comprising, detecting if a second computer system has acted upon the container, and updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system.

Appellants respectfully submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claim 22. On pages 10-11 of the Final Office Action, the Examiner alleged that STN Express discloses, *inter alia*, providing an emulator for a PC which emulates actions of a mainframe allowing a user on the PC to view actions of the mainframe, providing a status bar on the PC screen with the word 'online' or 'offline' depending on whether the emulator is connected to the mainframe, displaying the word 'online' in green when the mainframe awaits input from the PC user, and displaying the word 'online' in red when the user is instructed to wait for output from the mainframe after data is entered. The Examiner also alleged that Lagarde et al. discloses coupling a database on a different server computer with a user computer equipped with a browser where the user requests information from the database server, and accessing data through a network. The Examiner further took official notice that

output retrieved from a database server to a user computer is a reflection of actions taking place on the database server, that it is widely accepted in the art to detect if a first Internet computer has acted upon a software container in a second Internet computer, and that it is widely accepted in the art to provide animated icons on an Internet server wherein the user of a second computer system accessing the server can execute software stored on the server from the second computer system. The Examiner then asserted that it would have been obvious to detect if a second computer system has acted upon a container and to update an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. The Examiner never mentioned how Johnston et al. was being relied upon.

Appellants respectfully submit that STN Express, Lagarde et al., and Johnston, Jr. et al. do not disclose or suggest updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. On page 11 of the Final Office Action, the Examiner indicated that it would have been obvious to include this step, because "[d]oing so is a widely accepted method for allowing the user accessing a first computer system from a second computer system for viewing a copy of the output from the first computer from the second computer." Appellants respectfully disagree with that position. There is no teaching or suggestion in STN Express, Lagarde et al., or Johnston, Jr. et al. to modify their systems so that an animated sequence to be displayed on the first computer system is updated so as to reflect the actions of the second computer system. None of the references actually show an animated sequence that is updated in the aforementioned manner. Instead, the Examiner took official notice several times and seems to be asserting that the missing features are obvious because they

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are well-known. Appellants disagree with such an assessment and request that the Examiner supply a reference that discloses updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. Accordingly, STN Express, Lagarde et al., and Johnston, Jr. et al. do not disclose or suggest updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claim 22 is patentable over the cited references.

Claim 23 depends from claim 22, and requires that the first computer system and the second computer system are connected to the Internet. This claim is patentable, at least, in view of its dependence from claim 22.

Claim 24 depends from claim 22, and requires the step of displaying the animated sequence on the first computer system. This claim is patentable, at least, in view of its dependence from claim 22.

Claim 26 is drawn to a computer readable medium containing instructions executable on a computer. The instructions are executable to perform the method described above with reference to claim 22. Accordingly, Appellants respectfully submit that this claim is patentable for at least the reasons given with respect to claim 22.

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F. **Did the Examiner Improperly Reject Claims 27 and 28 under 35 U.S.C. §**

103(a) as Being Unpatentable over Baecker et al., STN Express, and Johnston, Jr. et al.

Appellants traverse the rejection of claims 27 and 28 under 35 U.S.C. § 103(a) as being

unpatentable over Baecker et al., STN Express, and Johnston, Jr. et al.

With respect to the rejections of claims 27 and 28, Appellants submit that these rejections

are very confusing. On page 12 of the Final Office Action, the Examiner stated that he was

rejecting claims 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over STN Express,

Lagarde and Johnston, Jr. et al. An inspection of the body of the rejection, however, revealed

that the Examiner actually applied Baecker et al., STN Express, and Johnston, Jr. et al.

Furthermore, the rejection of claim 27 seems to address the claim limitations of claim 28, and the

rejection of claim 28 seems to address the claim limitations of claim 27. In view of this

confusion and the Examiner's apparent errors in properly applying references, Appellants

respectfully request that the rejections of these claims be withdrawn. Short of these rejections

being withdrawn, Appellants have attempted to make sense out of the stated rejections.

Claim 27 is drawn to a computer system comprising a memory containing code for

performing a process similar to that described above with reference to claim 19. Accordingly,

Appellants respectfully submit that this claim is patentable for at least the reasons given with

respect to claim 19. In addition to the arguments presented above with respect to claim 19,

Appellants further assert that none of Baecker et al., STN Express, and Johnston, Jr. et al.

disclose or suggest detecting activity of a closed container, and updating an animated sequence

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so as to reflect activity of the closed container. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claim 27 is patentable over the cited references.

Claim 28 is drawn to a computer system comprising a memory containing code for performing a process similar to that described above with reference to claim 22. Accordingly, Appellants respectfully submit that this claim is patentable for at least the reasons given with respect to claim 22 in section E above. In addition to the arguments presented above with respect to claim 22, Appellants further assert that none of Baecker et al., STN Express, and Johnston, Jr. et al. disclose or suggest updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. Appellants respectfully submit that the Examiner has failed to provide a prima facie case of obviousness, and that therefore, claim 28 is patentable over the cited references.

G.   **Did the Examiner Improperly Reject Claim 8 under 35 U.S.C. § 103(a) as Being Unpatentable over Gallagher in view of Johnston, Jr. et al.**

Appellants traverse the rejection of claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Gallagher in view of Johnston, Jr. et al.

Claim 8 depends from claim 7, and requires that the cyclical display provides an intuitive representation of a degree of the change in the state of the container. This claims is patentable, at least, in view of its dependence from claim 7.
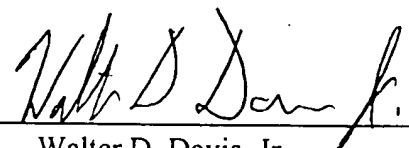
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IX.   CONCLUSION

In view of the foregoing, it is respectfully submitted that the final rejection of claims 1-31 should be reversed, and such reversal is respectfully requested.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By:_____
Walter D. Davis, Jr.
Reg. No. 45,137

Dated: February 1, 2000

Post Office Address (to
which correspondence is
to be sent)

Finnegan, Henderson, Farabow,
   Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, D.C. 20005
(202) 408-4000

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, D. C. 20005
202-408-4000

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APPENDIX

1.   A process for reflecting a state of a software container having objects, comprising:

cyclically displaying a series of frames reflecting a state of the container as an animated

sequence;

detecting an event reflecting a change in the state of the container;

determining based on the detected event whether an animated sequence does not reflect

the state of the container; and

updating the cyclical display based on the determination.

2.   The process of claim 1, wherein the cyclical display provides an intuitive

representation of a degree of the change in the state of the container.

3.   The process of claim 1, wherein the cyclical display reflects the numbers and

types of the objects.

4.   The process of claim 1, wherein the cyclical display embeds audio information in

the generated frames.

5.   The process of claim 2, wherein the cyclical display uses one of color variations,

tempo, motion, and change in size to represent the degree of the change in the state of the

container.

6.   The process of claim 3, wherein the cyclical display uses color variations, tempo, motion, and change in size to reflect the number or type of the objects in the container.

7.   A computer system comprising:

a memory including a software container and an animated indicator program, the animated indicator program including computer code for monitoring the software container to detect an event reflecting a change in a state of the container, for determining based on the detected event whether an animated sequence does not reflect the state of the container, and for generating a series of frames to reflect a state of the container based on the determination;

a display on which a series of frames is cyclically displayed in an animated sequence; and

a processor configured to execute programs in the memory.

8.   The computer system of claim 7, wherein the cyclical display provides an intuitive representation of a degree of the change in the state of the container.

9.   The computer system of claim 7, wherein the cyclical display reflects the number and type of objects of the container.

10.   The computer system of claim 7, wherein the animated indicator program further includes computer code for embedding audio information in the generated frames.

11. The computer system of claim 8, wherein the animated indicator program further includes computer code for using one of color variations, tempo, change in size, and motion to represent the degree of the change in the state of the container.

12. The computer system of claim 9, wherein the animated indicator program further includes computer code for using color variations, tempo, change in size, and motion to reflect the number or type of the objects in the container.

13. A computer readable medium containing instructions executable on a computer, the instructions when executed on the computer performing the steps of:

cyclically displaying a series of frames in an animated sequence such that the animated sequence reflects a state of a software container;

detecting an event reflecting a change in the state of the container;

determining based on the detected event whether an animated sequence does not reflect the state of the container; and

updating the cyclical display based on the determination.

14. The computer readable medium of claim 13, wherein the instructions for the cyclical display cause the cyclical display to provide an intuitive representation of a degree of the change in the state of the container.

15.   The computer readable medium of claim 13, wherein the instructions for the cyclical display cause the cyclical display to reflect the number and type of objects of in the container.

16.   The computer readable medium of claim 13, further including instructions for embedding audio information in the cyclical display.

17.   The computer readable medium of claim 14, further including instructions for using one of color variations, tempo, motion, and change in size to represent the degree of the change in the state of the container.

18.   The computer readable medium of claim 15, further including instructions for using one of color variations, tempo, motion, and change in size to reflect the number or type of objects in the container.

19.   A process for reflecting activity of a software container that is closed, comprising:

detecting activity of the closed container; and

updating an animated sequence so as to reflect activity of the closed container.

20.   The process according to claim 19, further comprising:

displaying the animated sequence.

21. The process according to claim 20, further comprising:

opening the container and interrupting the display of the animated sequence when the container is opened.

22. A process for reflecting activity of a network-based software container associated with a first computer system, comprising:

detecting if a second computer system has acted upon the container; and

updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system.

23. The process according to claim 22, wherein the first computer system and the second computer system are connected to the Internet.

24. The process according to claim 22, further comprising displaying the animated sequence on the first computer system.

25. A computer readable medium containing instructions executable on a computer, the instructions when executed on the computer perform a process for reflecting activity of a software container that is closed, including:

detecting activity of the closed container; and

updating an animated sequence so as to reflect activity of the closed container.

26.   A computer readable medium containing instructions executable on a computer, the instructions when executed on the computer perform a process for reflecting activity of a network-based software container associated with a first computer system, including:

detecting if a second computer system actions has acted upon the container; and

updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system.

27.   A computer system, comprising:

a memory containing code for performing a process for reflecting activity of a software container that is closed, including code for detecting activity of the closed container and code for updating an animated sequence so as to reflect activity of the closed container;

a display to display the animated sequence; and

a processor configured to execute programs in the memory.

28.   A computer network, comprising:

a memory in a first computer containing code for performing a process for reflecting activity of a network-based software container associated with the first computer system, including code for detecting if a second computer system has acted upon the container, and code for updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system;

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a display to display the animated sequence; and

a processor configured to execute programs in the memory.

29.   The process of claim 1, wherein the frames include characteristics that are symbolic of objects of the container.

30.   The computer system of claim 7, wherein the frames include characteristics that are symbolic of objects of the container.

31.   The computer readable medium of claim 13, wherein the frames include characteristics that are symbolic of objects of the container.

LAW OFFICES
INNEGAN, HENDERSON,
FARABOW, GARRETT,
8 DUNNER, L.L.P.
1300 I STREET, N. W.
IASHINGTON, D. C. 20005
202-408-4000

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